



MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL
BRIAN TAYLOR, CHIEF STATE FIRE MARSHAL

May 9, 2022

Mr. Kevin Kennedy
Cluck Design Collaborative, PLLC
1530 Elizabeth Avenue, Suite 200
Charlotte, NC 28204

**RE: 2018 NC Plumbing Code
2018 NCPC, 403.2 Separate facilities and 405.3.2 Public lavatories**

Mr. Kennedy:

This letter is in response to your request for formal interpretation dated April 13, 2022 that was received in NCDOI by email on April 14, 2022. Your request for formal interpretation states:

“Hi David. Respectfully, Cluck would like to appeal an interpretation of the Building Code, specifically the interpretation of Separate facilities for Hand Washing. We have prepared a comprehensive document, please see attached.”

Remarks:

Code sections noted in this letter are referring to the 2018 edition of the NC Plumbing Code unless otherwise noted.

Attachment A is comprised of the request for formal interpretation as well as all supporting information submitted with the request.

Code Analysis:

2018 NCPC 403.2 Separate facilities states the following:

403.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

1. Separate facilities shall not be required for dwelling units and sleeping units.
2. Separate facilities shall not be required in business occupancies with a total occupant load, including both employees and customers, of 30 or fewer. Separate facilities shall not be required in all other structures or tenant spaces with a total occupant load, including employees and customers, of 25 or fewer.
3. Separate facilities shall not be required in mercantile *occupancies* in which the maximum occupant load is 100 or fewer.

4. Except as provided in Section 405.3.2.
5. Where the code requires only one toilet facility for each sex, two unisex facilities may be substituted for separate facilities.

Comments: The code requires separate facilities for males and females for the purposes of privacy and safety. The exceptions are intended to limit cost and space hardships for smaller spaces and occupancies.

2018 NCPC 405.3.2 Public lavatories states the following:

405.3.2 Public lavatories. In employee and *public* toilet rooms, the required lavatory shall be located in the same room as the required water closet except in Education K—5, lavatories may be provided in a common toilet room vestibule, visible from the corridor.

Comments: The required lavatories and water closets shall be in the same room or in an adjacent room connected by openings without doors.

Conclusions:

2018 NCPC 403.2 Separate facilities and 405.3.2 Public lavatories require separate facilities for each sex and for the lavatories and water closets to be located in the same room unless the exceptions apply. Unless the exceptions apply, sharing facilities, water closets and lavatories between sexes is prohibited by the code.

Please call if you have comments or questions.

Sincerely,



David B. Rittlinger, PE, LEED AP
Chief Code Consultant
NCDOT-OSFM Engineering & Codes Division

cc: File
Bridget Herring, Chair – BCC
Danny Priest, Vice-Chair – BCC, Chair – BCC Building Standing Committee
Tommy Rowland, Mechanical/Plumbing Code Administrator, Mecklenburg County, NC

ATTACHMENT A



**APPENDIX E
APPEALS
NORTH CAROLINA
BUILDING CODE COUNCIL**
325 North Salisbury Street, Room 5_44
Raleigh, North Carolina 27603
(919) 647-0095

APPEAL TO NCDOI/NCBCC Hearing Date 04 / 13 / 22
GS 153A-374, GS 160A-434 GS 143-140, GS 143-141
Formal Interpretation by NCDOI _____
Appeal of Local Decision to NCDOI X _____
Appeal of Local Decision to NCBCC _____
Appeal of NCDOI Decision to NCBCC _____

APPELLANT Kevin Kennedy **PHONE** (704) 405 - 5980 **X** _____
REPRESENTING Cluck Design Collaborative, PLLC
ADDRESS 1530 Elizabeth Ave Suite 200
CITY Charlotte **STATE** NC **ZIP** 28204
E-MAIL kevin@cluckdesign.com **FAX** (_____) _____ - _____

North Carolina State Building Code, Volume _____ - Section _____

REQUEST ONE: Formal Interpretation by NCDOI Appeal of Local Decision to NCBCC
 Appeal of Local Decision to NCDOI Appeal of NCDOI Decision to NCBCC

Type or print. Include all background information as required by the referenced General Statutes and the attached policies. Attach additional supporting information.

Please see attached document

REASON:

Please see attached document

Signature  DATE: 04/13/22 **FORM 3/14/17** **APPEAL TO NCDOI/NCBCC**

Cluck

The NC Plumbing Code Appeal of Interpretation

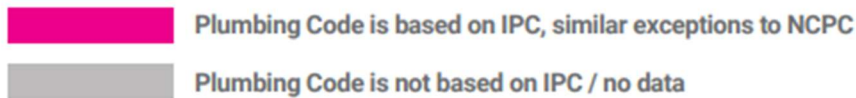
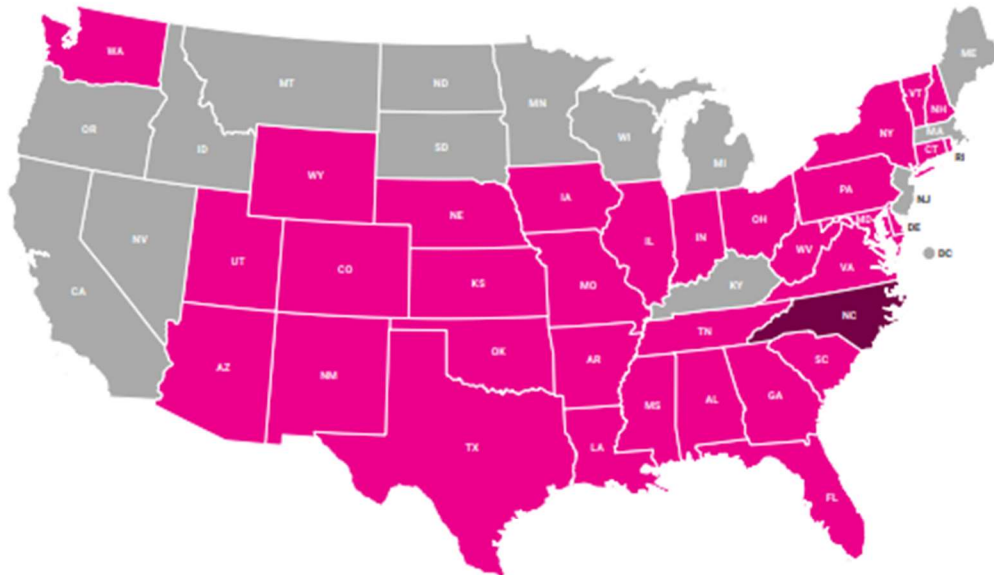
—
David Rittlinger
Code Interpretations Supervisor
and Chief Code Consultant

N.C. Department of Insurance
Office of State Fire Marshal
1201 Mail Service Center
Raleigh, NC 27699-1201

Date: 04/13/2022

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The NC Plumbing Code - Appeal of Interpretation



Many States are based on IPC and have the same or similar code wording. However, North Carolina and Mecklenburg County have a different interpretation of those codes.

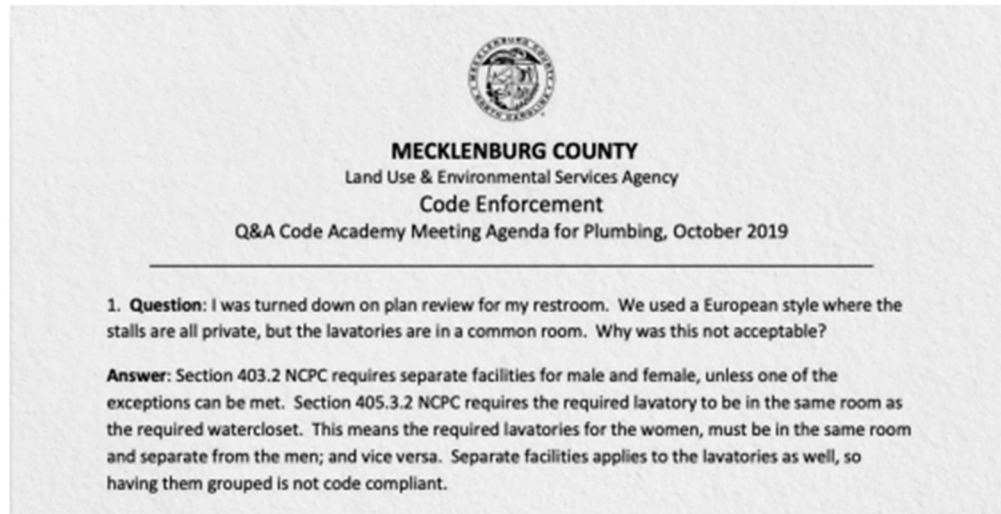
Section 403.2 Separate Facilities

Where plumbing fixtures are required, separate facilities shall be provided for each sex.

405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

The NC Plumbing Code - Appeal of Interpretation



Mecklenburg County interprets this differently.

Mecklenburg County interprets 405.3.2 to mean that required lavatories must be in the same room **AND** separate.

However, other municipalities do not add the "AND separate."

South Carolina, Colorado, New York and Washington all share the International Plumbing Code (IPC) Language. Each state does have different exceptions under Section 403.2, however those exceptions are not used in any of the examples shown. Each state follows the exact language of 405.3.2

IPC Section 405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

This Section of the Code is consistent for each of the Examples shown. The required Lavatory is in the same room as the required Water Closet. The only difference is Mecklenburg County's interpretation that Separate facilities applies to the lavatories.

Every Example shown here follows Section 405.3.2, the lavatories are in the same room as the water closets.

**The Lazy Goat is a Full Service Restaurant in Greenville, SC
Occupancy estimated at 300+**

2018 South Carolina Plumbing Code

Section 403.2 Separate Facilities

Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

- Separate facilities shall not be required for dwelling units and sleeping units.
- Separate facilities shall not be required for structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.
- Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or fewer.
- Separate facilities shall not be required in business occupancies in which the maximum occupant load is 25 or fewer.

405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

**The Lazy Goat doesn't qualify for any of the exceptions listed above
in 403.2**

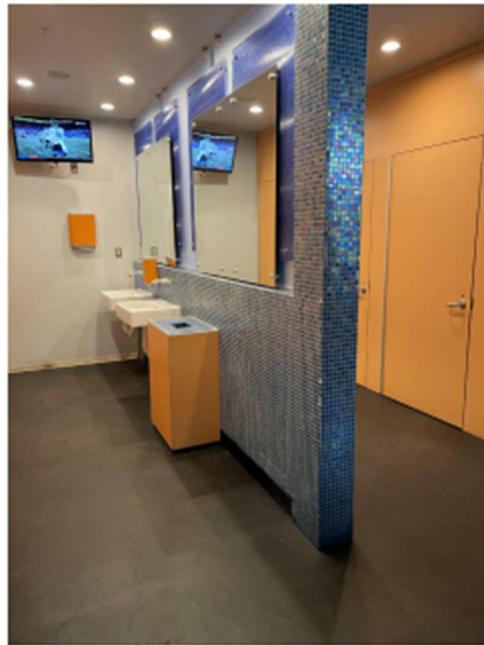
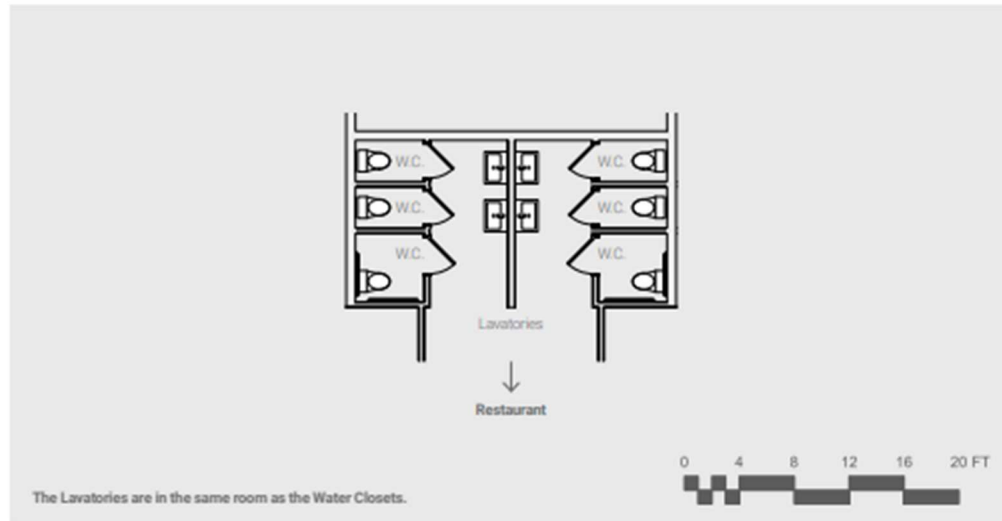
**The Lavatory is located in the same room as the required water
closet per 405.3.2**

Per the October 2019 document, Mecklenburg County would not allow this project.

Cluck

The Lazy Goat / Greenville, SC

Same Language



Cluck

Beatrice & Woodsley Restaurant / Denver, CO

Same Language

Beatrice & Woodsley is a Full Service Restaurant in Denver, CO
Occupancy estimated at 125+

2018 International Plumbing Code

Section 403.2 Separate Facilities

Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

- Separate facilities shall not be required for dwelling units and sleeping units.
- Separate facilities shall not be required for structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.
- Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or fewer.
- Separate facilities shall not be required in business occupancies in which the maximum occupant load is 25 or fewer.

405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

Beatrice & Woodsley doesn't seem to qualify for any of the exceptions listed above in 403.2

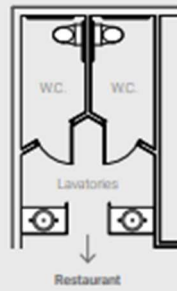
The Lavatory is located in the same room as the required water closet per 405.3.2

Per the October 2019 document, Mecklenburg County would not allow this project.

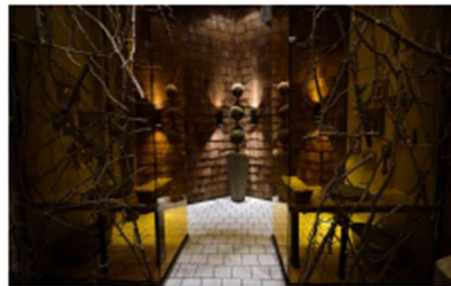
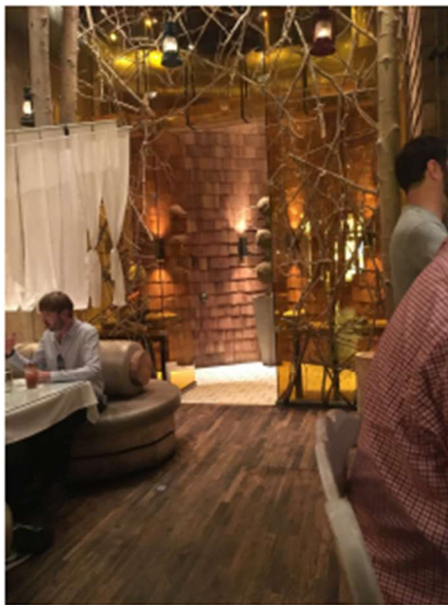
Cluck

Beatrice & Woodsley Restaurant / Denver, CO

Same Language



The Lavatories are in the same room as the Water Closets.



**Optimism Brewing is a Full Service Brewery/Restaurant in Seattle, WA
Occupancy estimated at 500+**

2015 International Plumbing Code

Section 403.2 Separate Facilities

Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

- Separate facilities shall not be required for dwelling units and sleeping units.
- Separate facilities shall not be required for structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.
- Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or fewer.

405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

Optimism Brewing doesn't qualify for any of the exceptions listed above in 403.2

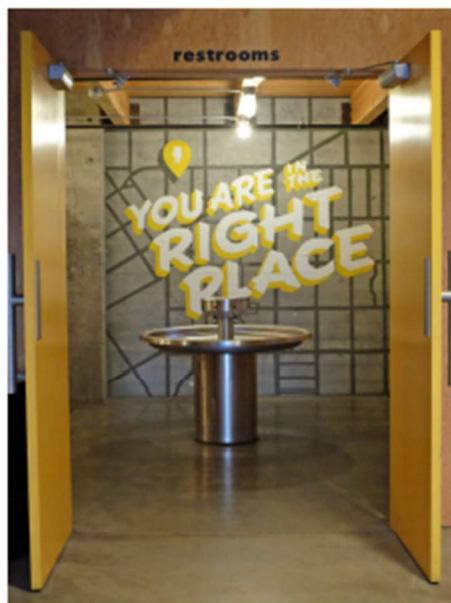
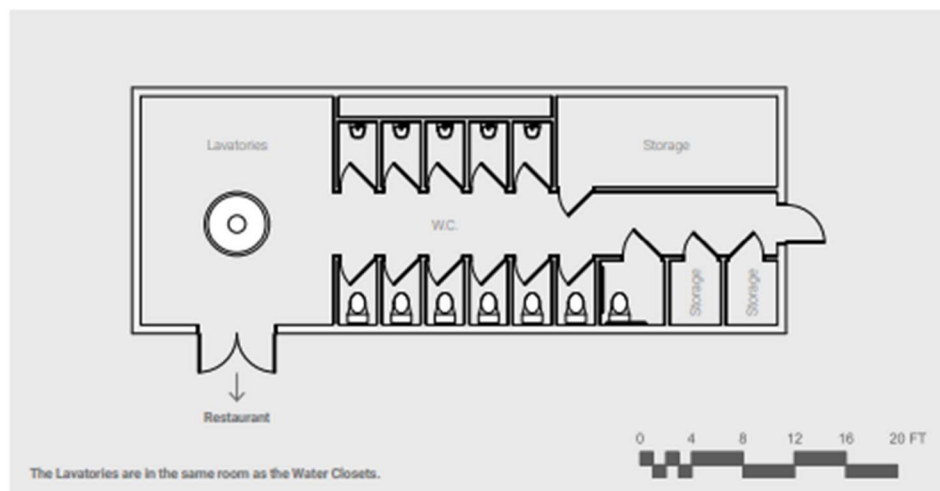
The Lavatory is located in the same room as the required water closet per 405.3.2

Per the October 2019 document, Mecklenburg County would not allow this project.

Cluck

Optimism Brewing / Seattle, WA

Same Language



**Cafeteria is a Full Service Restaurant in New York, NY
Occupancy estimated at 150+**

2020 Plumbing Code of New York State (NY)

403.2 Separate Facilities

Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

- Separate facilities shall not be required for dwelling units and sleeping units.
- Separate facilities shall not be required for structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.
- Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or fewer.
- Separate facilities shall not be required in business occupancies in which the maximum occupant load is 25 or fewer.
- Single-user toilet and bathing rooms provided in accordance with Section 403.1.2 shall be designated as gender neutral.
- Separate facilities shall not be required when multi-user facilities designed for use by both sexes are provided in accordance with Section 403.1.3.

405.3.2 - Public Lavatories

In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.

**Cafeteria may have used an exception for Separate Facilities,
however the Lavatory is located in the same room as the required
water closet per 405.3.2**

Per the October 2019 document, Mecklenburg County would not allow this project.

Cluck

Cafeteria / New York, NY

Same Language

